

**REMARKS/ARGUMENTS**

The Office Action mailed March 17, 2005 has been carefully considered.

Reconsideration in view of the following remarks is respectfully requested.

In the specification, paragraph [0001] has been amended to correct priority information in accordance with the Office Action. No new matter has been added.

Claims 1, 8, 12 and 19 have been amended to further particularly point out and distinctly claim subject matter regarded as the invention. Specifically, the independent claims have been amended to include the elements of dependent claims and minor grammatical corrections have been made to certain dependent claims. As such, no new matter has been added

Claims 7 and 14 have been canceled, without prejudice or disclaimer of the subject matter contained therein.

With this amendment it is respectfully submitted the claims satisfy the statutory requirements.

**The 35 U.S.C. § 112, Second Paragraph Rejection**

Claims 7 and 14 were rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter applicant regards as the invention. This objection is respectfully traversed.

The elements of claims 7 and 14 have been incorporated into claims 1 and 8, respectively, as well as claim 19. Furthermore, the elements have been amended to address the 35 U.S.C. § 112, second paragraph. Accordingly, Applicant respectfully requests that this rejection now be withdrawn

#### Judicially-created Double Patenting

Claims 1-14 were rejected pursuant to the judicially-created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4, 10 and 11 of prior United States Patent No. 6,735,218. With this response a Terminal Disclaimer in compliance with 37 CFR §1.321(c) is presented to obviate this rejection. Accordingly, this rejection is now moot, and Applicant respectfully requests that it be withdrawn.

#### The 35 U.S.C. § 102 Rejection

Claims 1, 3, 8, 10 and 19 were rejected under 35 U.S.C. § 102(e) as being allegedly anticipated by Quirke et al.<sup>1</sup> This rejection is respectfully traversed.

The Office Action does not reject claims 7 or 14 based on prior art, so Applicant assumes that these claims are allowable if rewritten in independent form and the non-prior art rejections are overcome. As stated above, the non-prior art rejections have been overcome using amendments and a terminal disclaimer, and the elements of claims 7 and 14 have been added to claims 1 and 8 respectively, as well as claim 19.

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<sup>1</sup> U.S. Patent No. 6,654,370

Specifically, Applicant notes that the prior art does not teach or suggest that encoding step (c) encodes the corresponding cell with end of packet information that varies in any way, let alone that varies dependent upon the degree to which data has filled the cell. As such, Applicant respectfully maintains that claims 1, 8, and 19 are in condition for allowance.

As to dependent claims 2, 4-7, 9 and 11-18, the argument set forth above is equally applicable here. The base claims being allowable, the dependent claims must also be allowable.

#### Conclusion

It is believed that this Amendment places the above-identified patent application into condition for allowance. Early favorable consideration of this Amendment is earnestly solicited.

If, in the opinion of the Examiner, an interview would expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney at the number indicated below.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

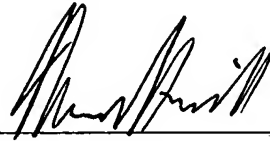
Please charge any additional required fee or credit any overpayment not otherwise paid or credited to our deposit account No. 50-1698.

Respectfully submitted,

THELEN REID & PRIEST, LLP

Dated: \_\_\_\_\_

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